



March 25, 2005

ENGROSSED SENATE BILL No. 140

DIGEST OF SB 140 (Updated March 24, 2005 12:21 pm - DI 14)

Citations Affected: IC 4-32.

Synopsis: Use of charity gaming proceeds. Prohibits the department of state revenue (department) from adopting a rule requiring a qualified organization to use a minimum percentage of its gross receipts from allowable events for its lawful purposes. Eliminates the department's authority to set by rule the allowable expenditures of a qualified organization with respect to an allowable event. Sets forth the expenses that may be subtracted from gross receipts to determine a qualified organization's net proceeds from an allowable event. Authorizes certain nonprofit business organizations to conduct door prize events. Authorizes an annual door prize event license. Defines certain items used to conduct raffles as qualified personal property. Prohibits the department from adopting a rule or otherwise limiting the rent that may be charged to lease qualified personal property. Provides that a person who leases qualified personal property to a qualified organization is not an operator or a worker for the allowable event. Prohibits the department from denying a qualified organization's application for a charity gaming license on the basis of the rent charged to the qualified organization to lease qualified personal property. Voids certain rules adopted by the department regarding the use of charity gaming proceeds. Voids a rule limiting the amount of rent that may be charged to rent personal property.

Effective: Upon passage.

Paul, Skinner, Nugent, Mrvan, Lewis
(HOUSE SPONSORS — SAUNDERS, HOFFMAN)

January 4, 2005, read first time and referred to Committee on Tax and Fiscal Policy.
February 1, 2005, amended, reported favorably — Do Pass.
February 7, 2005, read second time, ordered engrossed.
February 8, 2005, engrossed. Read third time, passed. Yeas 43, nays 6.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Public Policy and Veterans Affairs.
March 24, 2005, amended, reported — Do Pass.

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March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 140

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-32-6-4.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 4.5. "Bona fide business organization"**
4 **means a local organization that is not for pecuniary profit and is**
5 **exempt from federal income taxation under Section 501(c)(6) of the**
6 **Internal Revenue Code.**

7 SECTION 2. IC 4-32-6-16.4 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: **Sec. 16.4. "Licensed supply" refers to any of the**
10 **following:**

- 11 (1) **Bingo cards.**
12 (2) **Bingo boards.**
13 (3) **Bingo sheets.**
14 (4) **Bingo pads.**
15 (5) **Any other supplies, devices, or equipment designed to be**
16 **used in playing bingo designated by rule of the department.**
17 (6) **Pull tabs.**

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(7) Punchboards.

(8) Tip boards.

SECTION 3. IC 4-32-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) "Qualified organization" means:

(1) a bona fide religious, educational, senior citizens, veterans, or civic organization operating in Indiana that:

(A) operates without profit to the organization's members;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) has been continuously in existence in Indiana for at least five (5) years or is affiliated with a parent organization that has been in existence in Indiana for at least five (5) years; or

(2) a bona fide political organization operating in Indiana that produces exempt function income (as defined in Section 527 of the Internal Revenue Code).

(b) For the purpose of IC 4-32-9-3, a "qualified organization" includes the following:

(1) A hospital licensed under IC 16-21.

(2) A health facility licensed under IC 16-28.

(3) A psychiatric facility licensed under IC 12-25.

(4) An organization defined in subsection (a).

(c) For the purpose of IC 4-32-9-9.5, a "qualified organization" includes a bona fide business organization.

SECTION 4. IC 4-32-6-20.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.2. "Qualified personal property" means personal property leased by a qualified organization that is:**

(1) designed to be used on a body of water; and

(2) used to conduct a raffle associated with the qualified organization's allowable event in the following manner:

(A) Each item of the personal property is marked with a number corresponding to the number of a chance purchased in a raffle.

(B) The winner of the raffle is determined by the number of the item of personal property that crosses a designated finish line on the body of water first.

SECTION 5. IC 4-32-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) Except as provided in subsection (b),** the department may adopt rules under IC 4-22-2 for the establishment, implementation, and operation of allowable events or to ensure that the allowable events are consistently operated in a fair and

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1 honest manner.

2 (b) The department may not adopt a rule under IC 4-22-2
3 requiring a qualified organization to use a minimum percentage of
4 the qualified organization's gross receipts from allowable events
5 and related activities for the lawful purposes of the qualified
6 organization.

7 (c) The department may not adopt a rule under IC 4-22-2 to
8 limit the rent that may be charged to a qualified organization to
9 lease qualified personal property.

10 SECTION 6. IC 4-32-9-9.5 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
12 UPON PASSAGE]: Sec. 9.5. (a) The commissioner may issue an
13 annual door prize license to a qualified organization if:

- 14 (1) the provisions of this section are satisfied; and
15 (2) the qualified organization:

16 (A) submits an application; and

17 (B) pays a fee set by the department under IC 4-32-11.

18 (b) Each officer of a qualified organization that signs an
19 application for an annual door prize license under this section must
20 live in the county where the proposed door prize events will be
21 held.

22 (c) The application for an annual door prize license must
23 contain the following:

- 24 (1) The name of the qualified organization.
25 (2) The location where the door prize events will be held.
26 (3) The names of the operator and officers of the qualified
27 organization.

28 (d) A license issued under this section:

- 29 (1) may authorize the qualified organization to conduct door
30 prize events on more than one (1) occasion during a period of
31 one (1) year;
32 (2) must state the locations of the permitted door prize events;
33 (3) must state the expiration date of the license; and
34 (4) may be reissued annually upon the submission of an
35 application for reissuance on the form established by the
36 department and upon the licensee's payment of a fee set by
37 the department.

38 (e) The commissioner may reject an application for an annual
39 door prize license if, after a public hearing, the commissioner
40 determines that the applicant:

- 41 (1) has violated a local ordinance; or
42 (2) has engaged in fraud, deceit, or misrepresentation.

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SECTION 7. IC 4-32-9-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. ~~The department may, by rule, set the allowable expenditures of a qualified organization with respect to an allowable event.~~

(a) All net proceeds from an allowable event and related activities may only be used for the lawful purposes of the qualified organization.

(b) **To determine the net proceeds from an allowable event, a qualified organization shall subtract the following from the gross receipts received from the allowable event:**

(1) **An amount equal to the total value of the prizes, including door prizes, awarded at the allowable event.**

(2) **The sum of the purchase prices paid for licensed supplies dispensed at the allowable event.**

(3) **An amount equal to the qualified organization's license fees attributable to the allowable event.**

SECTION 8. IC 4-32-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) Except as provided in subsection (d), if facilities are leased for an allowable event, the rent may not:

(1) be based in whole or in part on the revenue generated from the event; or

(2) exceed two hundred dollars (\$200) per day.

(b) A facility may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

(d) If a qualified organization conducts an allowable event in conjunction with or at the same facility where the qualified organization or its affiliate is having a convention or other meeting of its membership, facility rent for the allowable event may exceed two hundred dollars (\$200) per day. A qualified organization may conduct only one (1) allowable event under this subsection in a calendar year.

(e) If qualified personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event. However, the department may not limit the amount of the rent charged to the qualified organization for the qualified personal property.

SECTION 9. IC 4-32-9-37 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. **A person that leases qualified personal property to a qualified organization is not considered to be an**

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operator or a worker for the allowable event in which the qualified personal property will be used.

SECTION 10. IC 4-32-9-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38. The department may not deny a qualified organization's application for a license under this article on the basis of the amount of rent charged to the qualified organization to lease qualified personal property.**

SECTION 11. IC 4-32-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The license fee that is charged to a qualified organization that renews the license must be based on the total gross revenue of the qualified organization from allowable events and related activities in the preceding year or, if the qualified organization held a license under IC 4-32-9-6, ~~through IC 4-32-9-7, IC 4-32-9-8, IC 4-32-9-9, or~~ IC 4-32-9-10, the fee must be based on the total gross revenue of the qualified organization from the preceding event and related activities, according to the following schedule:

Class	Gross Revenues		Fee
	At Least	But Less Than	
A	\$ 0	\$ 15,000	\$ 25
B	\$ 15,000	\$ 25,000	\$ 75
C	\$ 25,000	\$ 50,000	\$ 200
D	\$ 50,000	\$ 75,000	\$ 350
E	\$ 75,000	\$ 100,000	\$ 600
F	\$ 100,000	\$ 150,000	\$ 900
G	\$ 150,000	\$ 200,000	\$ 1,200
H	\$ 200,000	\$ 250,000	\$ 1,500
I	\$ 250,000	\$ 300,000	\$ 1,800
J	\$ 300,000	\$ 400,000	\$ 2,500
K	\$ 400,000	\$ 500,000	\$ 3,250
L	\$ 500,000	\$ 750,000	\$ 5,000
M	\$ 750,000	\$ 1,000,000	\$ 6,750
N	\$ 1,000,000	\$ 1,250,000	\$ 8,500
O	\$ 1,250,000	\$ 1,500,000	\$ 10,000
P	\$ 1,500,000	\$ 1,750,000	\$ 12,000
Q	\$ 1,750,000	\$ 2,000,000	\$ 14,000
R	\$ 2,000,000	\$ 2,250,000	\$ 16,250
S	\$ 2,250,000	\$ 2,500,000	\$ 18,500
T	\$ 2,500,000	\$ 3,000,000	\$ 22,500
U	\$ 3,000,000		\$ 25,000

SECTION 12. [EFFECTIVE UPON PASSAGE] **45 IAC 18-3-2(f),**



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1 **45 IAC 18-3-7, and 45 IAC 18-3-8 are void. The publisher of the**
2 **Indiana Administrative Code shall remove these provisions from**
3 **the Indiana Administrative Code.**

4 **SECTION 13. An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Skinner be added as coauthor of Senate Bill 140.

PAUL

SENATE MOTION

Madam President: I move that Senators Nugent and Mrvan be added as coauthors of Senate Bill 140.

PAUL

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 140, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-32-6-16.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.4. "Licensed supply" refers to any of the following:**

- (1) Bingo cards.**
- (2) Bingo boards.**
- (3) Bingo sheets.**
- (4) Bingo pads.**
- (5) Any other supplies, devices, or equipment designed to be used in playing bingo designated by rule of the department.**
- (6) Pull tabs.**
- (7) Punchboards.**
- (8) Tip boards."**

Page 1, line 13, delete "(a)".

Page 1, line 13, strike "The".

Page 1, strike lines 14 through 15.

Page 1, line 16, delete "(b)" and insert "(a)".

Page 2, delete lines 1 through 5, begin a new paragraph and insert:

"(b) To determine the net proceeds from an allowable event, a qualified organization shall subtract the following from the gross receipts received from the allowable event:

- (1) An amount equal to the total value of the prizes, including door prizes, awarded at the allowable event.**
- (2) The sum of the purchase prices paid for licensed supplies dispensed at the allowable event.**
- (3) An amount equal to the qualified organization's license fees attributable to the allowable event."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 140 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Madam President: I move that Senator Lewis be added as coauthor of Engrossed Senate Bill 140.

PAUL

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Senate Bill 140, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-32-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. "Bona fide business organization" means a local organization that is not for pecuniary profit and is exempt from federal income taxation under Section 501(c)(6) of the Internal Revenue Code.**"

Page 1, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 3. IC 4-32-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) "Qualified organization" means:

(1) a bona fide religious, educational, senior citizens, veterans, or civic organization operating in Indiana that:

(A) operates without profit to the organization's members;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) has been continuously in existence in Indiana for at least five (5) years or is affiliated with a parent organization that has been in existence in Indiana for at least five (5) years; or

(2) a bona fide political organization operating in Indiana that produces exempt function income (as defined in Section 527 of the Internal Revenue Code).

(b) For the purpose of IC 4-32-9-3, a "qualified organization" includes the following:

(1) A hospital licensed under IC 16-21.

(2) A health facility licensed under IC 16-28.

(3) A psychiatric facility licensed under IC 12-25.

(4) An organization defined in subsection (a).

(c) For the purpose of IC 4-32-9-9.5, a "qualified organization" includes a bona fide business organization.

SECTION 4. IC 4-32-6-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.2. "Qualified personal property" means personal property leased by a qualified organization that is:**

(1) designed to be used on a body of water; and

(2) used to conduct a raffle associated with the qualified

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organization's allowable event in the following manner:

(A) Each item of the personal property is marked with a number corresponding to the number of a chance purchased in a raffle.

(B) The winner of the raffle is determined by the number of the item of personal property that crosses a designated finish line on the body of water first."

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"(c) The department may not adopt a rule under IC 4-22-2 to limit the rent that may be charged to a qualified organization to lease qualified personal property.

SECTION 6. IC 4-32-9-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. (a) The commissioner may issue an annual door prize license to a qualified organization if:**

(1) the provisions of this section are satisfied; and

(2) the qualified organization:

(A) submits an application; and

(B) pays a fee set by the department under IC 4-32-11.

(b) Each officer of a qualified organization that signs an application for an annual door prize license under this section must live in the county where the proposed door prize events will be held.

(c) The application for an annual door prize license must contain the following:

(1) The name of the qualified organization.

(2) The location where the door prize events will be held.

(3) The names of the operator and officers of the qualified organization.

(d) A license issued under this section:

(1) may authorize the qualified organization to conduct door prize events on more than one (1) occasion during a period of one (1) year;

(2) must state the locations of the permitted door prize events;

(3) must state the expiration date of the license; and

(4) may be reissued annually upon the submission of an application for reissuance on the form established by the department and upon the licensee's payment of a fee set by the department.

(e) The commissioner may reject an application for an annual door prize license if, after a public hearing, the commissioner determines that the applicant:

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(1) has violated a local ordinance; or

(2) has engaged in fraud, deceit, or misrepresentation."

Page 2, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 8. IC 4-32-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) Except as provided in subsection (d), if facilities are leased for an allowable event, the rent may not:

(1) be based in whole or in part on the revenue generated from the event; or

(2) exceed two hundred dollars (\$200) per day.

(b) A facility may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

(d) If a qualified organization conducts an allowable event in conjunction with or at the same facility where the qualified organization or its affiliate is having a convention or other meeting of its membership, facility rent for the allowable event may exceed two hundred dollars (\$200) per day. A qualified organization may conduct only one (1) allowable event under this subsection in a calendar year.

(e) If qualified personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event. However, the department may not limit the amount of the rent charged to the qualified organization for the qualified personal property.

SECTION 9. IC 4-32-9-37 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 37. A person that leases qualified personal property to a qualified organization is not considered to be an operator or a worker for the allowable event in which the qualified personal property will be used.**

SECTION 10. IC 4-32-9-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38. The department may not deny a qualified organization's application for a license under this article on the basis of the amount of rent charged to the qualified organization to lease qualified personal property.**

SECTION 11. IC 4-32-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The license fee that is charged to a qualified organization that renews the license must be based on the total gross revenue of the qualified organization from

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allowable events and related activities in the preceding year or, if the qualified organization held a license under IC 4-32-9-6, ~~through IC 4-32-9-7, IC 4-32-9-8, IC 4-32-9-9, or~~ IC 4-32-9-10, the fee must be based on the total gross revenue of the qualified organization from the preceding event and related activities, according to the following schedule:

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F	\$ 100,000	\$ 150,000	\$ 900
G	\$ 150,000	\$ 200,000	\$ 1,200
H	\$ 200,000	\$ 250,000	\$ 1,500
I	\$ 250,000	\$ 300,000	\$ 1,800
J	\$ 300,000	\$ 400,000	\$ 2,500
K	\$ 400,000	\$ 500,000	\$ 3,250
L	\$ 500,000	\$ 750,000	\$ 5,000
M	\$ 750,000	\$ 1,000,000	\$ 6,750
N	\$ 1,000,000	\$ 1,250,000	\$ 8,500
O	\$ 1,250,000	\$ 1,500,000	\$ 10,000
P	\$ 1,500,000	\$ 1,750,000	\$ 12,000
Q	\$ 1,750,000	\$ 2,000,000	\$ 14,000
R	\$ 2,000,000	\$ 2,250,000	\$ 16,250
S	\$ 2,250,000	\$ 2,500,000	\$ 18,500
T	\$ 2,500,000	\$ 3,000,000	\$ 22,500
U	\$ 3,000,000		\$ 25,000".

Page 2, line 23, delete "45 IAC 18-3-7 and" and insert "**45 IAC 18-3-2(f), IC 45 IAC 18-3-7, and**".

Page 2, line 25, delete "sections" and insert "**provisions**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 140 as printed February 2, 2005.)

ALDERMAN, Chair

Committee Vote: yeas 12, nays 0.

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